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Intellectual Property Law

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September 26, 2019

VIA ECF & Hand Delivery

The Honorable Rebecca R. Pallmeyer
United States District Chief Judge
United States District Court for the
Northern District of Illinois
219 South Dearborn Street, Room 2541
Chicago, IL 60604

The Honorable John Robert Blakey
United States District Judge
United States District Court for the
Northern District of Illinois
219 South Dearborn Street, Room 1203
Chicago, IL 60604

Re: Misconduct of Attorney Richard Liebowitz
Case Caption: *Chin v. FDRLST Media, LLC*
Civil Action No.: 1:19-cv-5837 (N.D. Ill)

Dear Chief Judge Pallmeyer, Judge Blakey:

Under Local Rule 83.28(a), on behalf of Defendant FDRLST Media, LLC, and pursuant to an attorney's duty to report the misconduct of another attorney as set forth by the Illinois Supreme Court in *In re Himmel*, I hereby submit the following summary of Attorney Richard Liebowitz's ("Attorney Liebowitz") actions in the above-captioned case that have violated the Federal Rules of Civil Procedure, the Local Rules of this Court, and the Illinois Supreme Court Rules of Professional Conduct, which apply to attorneys practicing in this Court.¹

Most notably, Attorney Liebowitz knowingly made a material misrepresentation in the filing of his Motion for Leave to Appear Pro Hac Vice (the "PHV Motion"). Dkt. No. 12. Specifically, the PHV Motion required Attorney Liebowitz to confirm whether he "has ever been: censured, suspended, disbarred, *or otherwise disciplined by any court?*" (emphasis added). Attorney Liebowitz affirmatively responded "No" to this question in the PHV Motion, and he signed this representation to the Court "under the penalty of perjury." Attorney Liebowitz's response to this question is false. Mr. Liebowitz has been subject to sanctions in multiple cases in the Southern District of New York due to his misconduct in that federal court. See, e.g., *Rice v. NBCUniversal Media, LLC*, No. 19-cv-00447 Dkt. No. 39 (S.D.N.Y. July 10, 2019) (ordering Attorney Liebowitz to pay monetary sanctions to defendant in the amount of \$8,745.50); *Craig v. UMG Recordings, Inc.*, No. 16-cv-05439 Dkt. No. 110 (S.D.N.Y. July 9, 2019) (ordering Attorney Liebowitz to pay monetary sanctions to defendant in the amount of \$98,532.62). Attorney Liebowitz's failure to report the sanctions levied against him in the

¹ See 125 Ill.2d 531 (Ill. 1988).

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Southern District in his present PHV Motion constitutes both a material misrepresentation and professional misconduct before this Court.

In addition, yesterday, Attorney Liebowitz violated the Federal Rules of Civil Procedure and the Court's Standing Order on the Mandatory Initial Discovery Pilot ("MIDP") Project to which this case has been assigned. Attorney Liebowitz served discovery requests on counsel for Defendant, including a Notice of Deposition, Requests for Production, and Interrogatories. These requests are improper under the Standing Order regarding the MIDP, and, moreover, they are premature under the Federal Rules of Civil Procedure governing the timing of the service of such discovery requests on an opposing party.²

Finally, Attorney Liebowitz violated the Court's Local Rules in his filing of the Complaint without first filing an appearance and engaging local counsel.³ To date, despite having filed the Complaint 28 days ago, Attorney Liebowitz has failed to engage local counsel for these proceedings, and only yesterday did Attorney Liebowitz file the PHV Motion. Accordingly, Attorney Liebowitz is not authorized to make representations on behalf of Plaintiff's interests in these proceedings.

As a result of these serious issues, as well as the ubiquitous press and publicity questioning Attorney Liebowitz's litigation practices, Defendant FDRLST Media respectfully requests the opportunity to fully brief and oppose Attorney Liebowitz's PHV Motion, and asks the Court to issue a briefing schedule to permit Defendant's opposition to the PHV Motion; or, in the alternative, an Order from the Court that confirms Attorney Liebowitz's status, or lack thereof, to practice in the Northern District of Illinois and in these proceedings.

If you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,



Michael K. Johnson

cc: Joseph V. Norvell, Esq.
Joseph T. Kucala, Jr., Esq.
Richard Liebowitz, Esq. (VIA ECF and electronic mail)

² See MIDP Standing Order Section A(1)(a) (MIDP discovery responses are "called for by this Standing Order issued by the Court, not by discovery requests actually served by an opposing party" and "additional discovery may proceed under the Federal Rules of Civil Procedure and as set forth in a case management order to be entered by the Court.").

³ See LR83.16(d) ("An attorney required by these rules to file an appearance form shall file the form prior to or simultaneously with the filing of any ... document in a proceeding before a district judge or magistrate judge of this Court.").